



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/169589

PRELIMINARY RECITALS

Pursuant to a petition filed October 23, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a telephonic hearing was held on December 15, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the petitioner is entitled to any more FS for September-November 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
█

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jose Silvestre, IM Spec. Adv.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County and receives FS.
2. On August 31, 2015 petitioner completed a renewal for FS and reported her income.
3. On September 1, 2015 the agency issued a request for verification to petitioner, requesting verification of her income.

4. On September 8, 2015 petitioner provided verification of her income to the agency.
5. On September 14, 2015 the agency pended petitioner's FS for verification of her daughter's income as the agency received an alert that she was a new hire as of September 1, 2015.
6. On September 24, 2015 the agency received verification that petitioner's daughter was no longer employed.
7. On September 25, 2015 the agency issued a notice of decision to petitioner stating that effective September 1, 2015 she would receive \$70 in FS, and \$62 in FS for October 2015.
8. On October 2, 2015 the petitioner contacted the agency. At that time, petitioner's rental obligation was updated at a higher amount of \$715.
9. On October 5, 2015 the agency issued a notice of decision to petitioner stating that effective November 1, 2015 her FS would increase to \$66 based on the increase in shelter costs.

DISCUSSION

In determining the amount of FS to be issued each month, the FS agency must budget all income of the FS household, including all earned and unearned income, including child support. 7 C.F.R. § 273.9(b); see also *FoodShare Handbook*, §4.3, *et seq.* From the gross household income, the following permissible deductions as discussed in the *FoodShare Handbook*, §4.6.1 are allowed: a standard deduction, an earned income deduction, a medical expenses deduction, a child support payment deduction, a dependent care expense deduction, and a shelter expense deduction. Some FS groups are not allowed a deduction for some expenses and some expenses are not always deducted in full. The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.2. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>.

The agency showed how it calculated petitioner's monthly earned income and deemed income, and provided the budget screens to show the calculations. See Exhibit 1. I can find no errors in the calculations.

Petitioner did not dispute the income calculated for her, but rather wanted some expenses considered when determining her net income such as cable and extermination services. These are not allowable expenses under the regulations cited above. While I understand these are real expenses for petitioner, I cannot deviate from what the law requires and I do not have equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

Based on the preponderance of the evidence before me, I must find that the agency correctly issued the FS.

CONCLUSIONS OF LAW

The petitioner is not entitled to any more FS for September-November 2015.

THEREFORE, it is

ORDERED

The petition for review herein is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 12th day of January, 2016

\sKelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 12, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability